

BEFORE THE  
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KEVIN WESLEY YOSHINO  
17516 Daphne Avenue  
Torrance, CA. 90504  
Occupational Therapy License No. OT 9052

Respondent.

Case No. OT2007-90

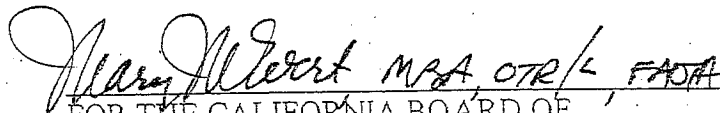
OAH No. L-2010020012

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 11, 2010.

It is so ORDERED October 12, 2010.

  
FOR THE CALIFORNIA BOARD OF  
OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 CHRISTINA THOMAS  
Deputy Attorney General  
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*Attorneys for Complainant*

8 BEFORE THE  
9 CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
10 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. OT2007-90

12 KEVIN WESLEY YOSHINO

OAH No. L-2010020012

13 17516 Daphne Avenue

14 Torrance, CA 90504

Occupational Therapy License No. OT 9052

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Heather Martin (Complainant) is the Executive Officer of the California Board of  
21 Occupational Therapy (Board). She brought this action solely in her official capacity and is  
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
23 by Christina Thomas, Deputy Attorney General.

24 2. Respondent Kevin Wesley Yoshino (Respondent) is represented in this proceeding by  
25 attorney Jay Belshaw, Esq., whose address is 2276 Torrance Blvd., Torrance, CA 90501.

26 3. On or about October 18, 2006, the California Board of Occupational Therapy issued  
27 Occupational Therapy License No. OT 9052 to Kevin Wesley Yoshino. The Occupational

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1 Therapy License was in full force and effect at all times relevant to the charges brought in  
2 Accusation No. OT2007-90 and expired on August 31, 2009.

3 JURISDICTION

4 4. Accusation No. OT2007-90 was filed before the California Board of Occupational  
5 Therapy. Department of Consumer Affairs, and is currently pending against Respondent. The  
6 Accusation and all other statutorily required documents were properly served on Respondent on  
7 August 25, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A  
8 copy of Accusation No. OT2007-90 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. OT2007-90. Respondent has also carefully read, fully  
12 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
13 Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
18 the attendance of witnesses and the production of documents; the right to reconsideration and  
19 court review of an adverse decision; and all other rights accorded by the California  
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation  
25 No. OT2007-90.

26 9. Respondent agrees that his Occupational Therapy License is subject to discipline and  
27 he agrees to be bound by the California Board of Occupational Therapy's imposition of discipline  
28 as set forth in the Disciplinary Order below.

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## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Occupational Therapy License No. OT 9052 issued to Respondent Kevin Wesley Yoshino is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. **Compliance with Probation and Quarterly Reporting.** Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board.

3. **Personal Appearances.** Upon reasonable notice by the Board, Respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. **Notification of Address and Telephone Number Change(s).** Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his new address and any change in work and/or home telephone numbers.

5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.** In the event Respondent should leave California to reside or to practice outside the State for more than thirty (30) days, Respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until Respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of residence or practice in California.

6. **Notification to Employer(s).** When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify his employer

1 of the probationary status of Respondent's license. This notification to the current employer shall  
2 occur no later than the effective date of the Decision. Respondent shall notify any prospective  
3 health care employer of his probationary status with the Board prior to accepting such  
4 employment. This notification shall be made by providing the employer or prospective employer,  
5 facility and supervisor with a copy of the Board's Accusation and Stipulated Settlement and  
6 Disciplinary Decision and Order.

7 Respondent shall cause each health care employer to submit quarterly reports to the Board.  
8 The reports shall be on a form provided by the Board, shall include a performance evaluation and  
9 such other information as may be required by the Board.

10 Respondent shall notify the Board, in writing, within five (5) days of any change in  
11 employment status. Respondent shall notify the Board, in writing, within five (5) days if he is  
12 terminated from any occupational therapy or health care related employment with a full  
13 explanation of the circumstances surrounding the termination.

14 **7. Employment Requirements and Limitations.** During probation, Respondent  
15 shall work in his licensed capacity in the State of California. This practice shall consist of no less  
16 than (6) continuous months and of no less than twenty (20) hours per week.

17 While on probation, Respondent shall not work for a registry or in any private duty  
18 position, except as approved, in writing, by the Board. Respondent shall work only on a regularly  
19 assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except  
20 as approved, in writing, by the Board.

21 **8. Supervision Requirements.** Respondent shall obtain approval from the Board,  
22 before commencing any employment, regarding the level of supervision provided to Respondent  
23 while employed as an occupational therapist.

24 Respondent shall not function as a supervisor during the period of probation except as  
25 approved, in writing, by the Board.

26 **9. Continuing Education Requirements.** Respondent shall complete continuing  
27 education in the area of Stress Management and Law and Ethics for a total of (12) twelve contact  
28 hours. Such continuing education shall be completed within one (1) year of the effective date of

1 the Decision.

2 Continuing education shall be in addition to the professional development activities required for license  
3 renewal. Within thirty (30) days of the effective date of the Decision, Respondent shall submit a written plan to  
4 comply with this requirement. The proposed plan shall include the name or title of the course, a course description  
5 or syllabus, and identify the provider. A Board representative shall approve such plan prior to enrollment in any  
6 course of study.

7 Failure to satisfactorily complete the required continuing education as scheduled shall constitute a  
8 violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful  
9 completion of the course work, Respondent shall send the original certificate(s) of completion to the Board within  
10 thirty (30) days of course completion. Respondent shall send the original certificate(s) to the Board by certified  
11 mail, return receipt requested.

12 10. Maintenance of Valid License. Respondent shall, at all times while on probation, maintain an  
13 active current license with the Board, including any period during which license is suspended or probation is  
14 tolled.

15 11. Cost Recovery Requirements. Respondent shall pay the Board \$3,300.00 as and for the  
16 reasonable costs of the investigation and prosecution in this matter pursuant to Business and Professions Code  
17 section 125.3. Respondent shall be permitted to pay these costs in a payment plan approved by a Board  
18 representative, with payments to be completed no later than four (4) months prior to the end of the probation term.

19 Any order for payment of cost recovery shall remain in effect whether probation is tolled. Probation shall  
20 not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with  
21 an established payment schedule, Respondent shall be considered to be in violation of probation. A period of non-  
22 practice shall not relieve Respondent the obligation to reimburse the Board for its costs.

23 Respondent shall reimburse the Board in the form of a check, money order, or cashier's check made  
24 payable to the California Board of Occupational Therapy or CBOT, and shall indicate on the check or money order  
25 that is the cost recovery payment for Case No. 072007-90.

26 12. Violation of Probation. If Respondent violates probation in any respect, the Board, after giving  
27 Respondent notice and opportunity to be heard, may revoke probation and carry out

1 the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed  
2 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
3 is final, and the period of probation shall be extended until the matter is final.

4 13. **Completion of Probation.** Upon successful completion of probation, Respondent's  
5 license will be fully restored.

6 14. **Examination by a Physician.** Within thirty (30) days of the effective date of the  
7 Decision, Respondent shall submit to a physical examination by a physician of his choice who  
8 meets minimum criteria established by the Board. The physician must be licensed in California  
9 and specialize in substance abuse disorders. The purpose of the examination shall be to  
10 determine Respondent's ability to perform all professional duties with safety to self and to the  
11 public. Respondent shall provide the examining physician with a copy of the Board's  
12 Disciplinary Order prior to the examination. Cost of such examination shall be paid by  
13 Respondent.

14 Respondent shall cause the physician to complete a written medical report to be submitted  
15 directly to the Board within sixty (60) days of the effective date of the Decision. If the examining  
16 physician finds that Respondent is not physically fit to practice or can only practice with  
17 restrictions the examining physician shall notify the Board, in writing, within five (5) working  
18 days. The Board shall notify Respondent in writing of the examining physician's determination  
19 of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a  
20 condition of probation.

21 Respondent shall comply with this condition until the Board is satisfied of Respondent's  
22 fitness to practice safely and has no notified respondent. Respondent shall document compliance  
23 in the manner required by the Board.

24 15. **Chemical Dependency Support/Recovery Groups.** Within five (5) days of the  
25 effective date of the Decision, Respondent shall begin weekly attendance at a chemical  
26 dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Verified  
27 documentation of attendance shall be submitted by Respondent with each quarterly report.  
28 Respondent shall continue attendance in such a group for the duration of probation.



Board staff may reduce the frequency of attendance after the first year of probation based on Respondent's work performance evaluations and compliance with the probation program.

16. **Abstain From Controlled Substances.** Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

Respondent shall have sent to the Board, in writing and within ten (10) days, by the prescribing health professional, a report identifying the medication, dosage and why the medication was prescribed, Respondent's progress, the date the medication will no longer be required and the effect on the recovery plan, if appropriate.

17. **Abstain From Use of Alcohol.** Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

18. **Submit Biological Fluid Samples.** Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There will be no confidentiality in the test results; positive test results will be immediately reported to the Board and Respondent's current employer.

Respondent shall make daily contact as directed by the Board to determine if he must submit to alcohol and drug testing. Respondent shall submit to his alcohol and drug test on the same day that he notified that a test is required. All alternative drug testing sites due to vacation or travel must be approved by the Board prior to vacation or travel.

#### ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jay Belshaw, Esq.. I understand the stipulation and the effect it will have on my Occupational Therapy License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Occupational Therapy.

DATED: \_\_\_\_\_

8/3/2010

Kevin Wesley Yoshino  
Respondent

I have read and fully discussed with Respondent Kevin Wesley Yoshino the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8-3-10

Jay Belshaw, Esq.  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Occupational Therapy of the Department of Consumer Affairs.

Dated: 8/5/10

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General

Christina Thomas  
CHRISTINA THOMAS  
Deputy Attorney General  
*Attorneys for Complainant*

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